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those of an assignee, receiver, etc. Receivers were appointed in a creditors' suit. The state intervened, praying that the receivers be ordered to pay the franchise taxes for the years since their appointment, with the penalties for non-payment. From such an order the receivers appealed. *Held*, that the order was correct, the court following a decision by the Circuit Court of Appeals of another Circuit decreeing payment of the taxes and penalties. *Bright v. State of Arkansas* (1918, C. C. A. 8th) 249 Fed. 950.

In view of the conflict of authority on the point at issue, the court followed by preference a decision of the Circuit Court of Appeals of the Ninth Circuit. Its sane pronouncement on such action is worthy of note. "In deciding questions of policy and practice which involve no vital moral issue, certainty in the law and uniformity of decision are often more essential to the wise administration of justice and to the interests of business men than a particular policy or practice. Where the correct decision of such a question is doubtful, and one of the United States Circuit Courts of Appeals has decided it in a considered opinion, it is the duty of the others to follow that decision, unless it clearly appears to them, or to some of them, to be unfair or unwise, and it is the duty of the courts at all times, in the consideration of such issues, to lean towards uniformity of decision and practice."

COURTS-MARTIAL—PERSONS SUBJECT TO MILITARY LAW—COOK UPON ARMY TRANSPORT.—The petitioner, a civilian, was employed in time of war by the U. S. Quartermaster's Department and was assigned as cook upon an army transport lying at the Bush Terminal, Brooklyn. Just before the ship was to sail he attempted to desert, was arrested by military police and held for trial by court-martial. He petitioned for a writ of *habeas corpus*. *Held*, that he was "a person serving with the armies of the United States in the field" and therefore was subject to military law and to trial by court-martial. *Ex parte Falls* (1918, D. N. J.) 251 Fed. 415.

In holding that service "in the field" may be performed at any place, whether on land or on water, where such service is required for the good of the regular army, the court gives a liberal but sensible interpretation to section 2 of the Articles of War. The decision finds support in *Ex parte Gerlack* (1917, S. D. N. Y.) 247 Fed. 616, noted in (1918) 27 YALE LAW JOURNAL, 968.

GARNISHMENT—EFFECT OF GOVERNMENTAL CONTROL OF RAILROADS FOR WAR PURPOSES.—In an action against the Pennsylvania Railroad Company certain other railroads were summoned on January 29, 1918, as garnishees. Prior thereto all the companies had been taken under federal control pursuant to the President's Proclamation of December 26, 1917. The garnishees admitted traffic balances owing to the Pennsylvania but contended that they could not be subjected to garnishment because of that provision of the Proclamation which declared that "except with the prior written consent of [the Director General], no attachment by mesne process or on execution shall be levied on or against any of the property used by any of said transportation systems in the conduct of their business as common carriers. . . ." *Held*, that such traffic balances were not subject to garnishment. *Dooley v. Pennsylvania Railroad Co. et al.* (1918, D. Minn.) 250 Fed. 142.

The legality of the above quoted provision of the President's Proclamation was questioned in a *dictum* in *Muir v. Louisville & N. R. R. Co.* (1918, W. D. Ky.) 247 Fed. 888, 896. The principal case sustains it as incidental to the general power to take possession of the railroads conferred upon the President

by act of August 29, 1916. 39 U. S. Stat. at L. 645. If this be sound, the decision that traffic balances form part of a revolving fund which is as necessary to the operation of the road as are cars and engines, seems also correct.

LIBEL AND SLANDER—ACTIONABLE WORDS—STATEMENT THAT CANDIDATE FOR OFFICE IS NOT A CITIZEN.—The defendant published in its paper a statement that the plaintiff, who was a candidate for the office of village clerk, was not a citizen of the United States. Citizenship was a requisite of eligibility to the office in question; the plaintiff was a naturalized citizen. *Held*, that under the circumstances the words were libelous. *MacInnis v. National Herald Printing Co.* (1918, Minn.) 167 N. W. 550.

The decision seems clearly correct. As the court said, there was no need to find a case precisely in point. The meaning of language depends, of course, upon the circumstances under which it is uttered. While the words in question under ordinary circumstances would clearly not be libelous, it is equally clear that as here used they charged the plaintiff with seeking an office for which he was ineligible, and thus lessened him in public esteem and confidence. It should be noted that the appellate court sustained a verdict for punitive damages, on the ground that the circumstances attending the publication of the statement showed "actual malice."

RECORDING ACTS—NOTICE BY RECORD—MORTGAGE RECORDED IN WRONG COUNTY COMMONLY BELIEVED THAT IN WHICH LAND WAS LOCATED.—A mortgage was recorded in the county in which it was commonly believed the mortgaged land was situated. The mortgage deed described the land as in that county. Later the Supreme Court decided that the strip of land of which the mortgaged property was a part was in another county. Subsequently the mortgagor conveyed to a purchaser who had no actual notice of the mortgage. This grantee recorded his deed in the county where the land was. Still later the mortgage was also recorded in that county. In the present action for foreclosure of the mortgage the defendant claimed title under the deed first recorded in the proper county. *Held*, that the record of the mortgage in the county commonly believed to be the one in which the land was situated was constructive notice to subsequent purchasers. Whiting, P. J., *dissenting*. *Hulsether v. Peters* (1918, S. D.) 167 N. W. 497.

There is apparently little authority upon the point. The principal case is in accord with the view taken in *Stewart & Theus v. Walsh* (1871) 23 La. Ann. 560. A strict construction of the language of the recording acts, however, would lead to the opposite conclusion. *Adams v. Hayden* (1883) 60 Tex. 223. If the object of recording is to give intending purchasers opportunity to examine into the title, the decision seems sound, for obviously they would examine the records of the county in which the community believed the land to be situated. The only doubtful point is raised by the fact that plaintiff, a non-resident, failed to record the mortgage in the proper county for nearly two years after the Supreme Court's decision settling the boundary, and it was during this interval that the subsequent grant was made. However, it may well be argued that intending purchasers who knew of the decision ought to examine the records of the county in which the community previously supposed the land lay. If so, the result reached is sound.

TORTS—PICKETING—INJUNCTION AGAINST PICKETING BY UNION WORKMEN.—Upon the plaintiff's refusal to unionize his restaurants, most of his employees